

### REMARKS

Pursuant to 37 CFR § 1.116(b)(2), applicant submits this Rule 116 Amendment to present an allowable claim previously suggested by Examiner Wilcox in a Telephone Interview Summary of July 15, 2009, copy attached hereto. Applicant has accordingly limited the issues to only independent claim 40 and dependent claims therefrom.

In this regards, claim 40 has been returned to its previous state of a collection data collecting system for promoting a growth or health of a living organism rather than a culture and consistent with the below Figure 8 of our disclosure and the suggestion of Examiner Wilcox, state data is defined with a definition of an effectiveness and uniqueness in obtaining the assessment data while further the state data includes both image data of living organisms and a state of a midstream process. The respective dependent claims that depend from independent claim 40 have been accordingly amended to be consistent with this past request of the Examiner.

	ASSESSMENT DATA NAME	UNIQUENESS	EFFECTIVENESS	ENVIRONMENTAL DATA NAME
LINK WITH ENVIRONMENTAL DATA →	11234.zzz	1 (WITH)	1 (WITH)	e1234.xxx
	15981.zzz	1 (WITH)	0 (NO)	e5981.xxx

**FIG.8**

It is believed that by proposing a revision of claim 40 back to its previous state with the elements proposed and suggested in communications with Examiner Wilcox in July 2009, copy attached hereto, which will place the case in condition for allowance.

As the Examiner is aware, applicant was seeking broader coverage, however the claim elements in the proposed amendment had previously been suggested as allowable and do not add

any new matter. Claim 40 defines patentable subject matter over the same principle reference of Lys et al. US Patent No. 6,577,080 that was previously utilized in 2009 in combination with the Copenhaver et al. US Patent Publication No. 2003/0131372. The present rejection still relies principally on the Lys et al. patent when combined with the Liu et al. US Patent Publication No. 2003/0028914.

Neither Liu et al. nor Copenhaver et al. references resolve the deficiency of the Lys et al. reference relative to a definition of the state data as set forth in Paragraph [0047] and the assessment data as described in Paragraph [0069] as now defined in Claim 40.

The present Office Action basically repeats the previous Office Action with the exception of the comments found on Pages 14-17, which contended that our claims failed to define an interactive receipt and distribution for a collective research project and a multiple controlling system with the capacity to create a common collective database by give and take of information as part of the data collecting system with a further incentive of royalties for each of the multiple controlling system proprietors.

However, in claim 60 we did define both multiple controlling systems and an information processing system that is communally connected with the controlling system. Fundamental data could be provided from the information processing system and an environmental data receiving part could receive data from a first controlling system and can deliver data to a second controlling system with a royalty data producing part producing royalty data which is paid in return for disclosing environmental data originally produced by the first controlling system to the second controlling system.

Applicant, however, would prefer to resolve the present prosecution rather than to further pursue the subject matter of claim 60 on appeal and accordingly has proposed limiting the issues

in consideration to the currently amended claim 40 which represents subject matter which was indicated as potentially allowable in the interview of July 15, 2009.

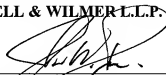
In this regard, applicant would further like to bring to the attention of the Examiner that on Page 7 of the Office Action after the July 2009 interview it was acknowledged that the Lys et al. reference did not disclose state data, and did not disclose a state data receiving part that receives state data including image data of a living organism or a state of a midstream process. The Liu et al. reference only relied upon a method of generating a traceable database to correlate a mutant plant trait with a modified expression of one or more plant genes. The Lys et al. reference taught basically a lighting entertainment system with very minimal mentioning of any plant growth among the many different types of other applications. Neither Lys et al., nor Liu et al. are capable of creating a virtual research team with rewards for providing contributory information to accelerate innovation.

In summary, applicant is proposing accepting the previously indicated allowable subject matter in a claim format that was proposed by the Examiner. Applicant has cancelled the other independent claims in order to facilitate an early notice of allowance.

If the Examiner believes a telephone interview will assist in the further prosecution of this matter, the undersigned attorney can be contacted at the listed phone number.

Very truly yours,

**SNELL & WILMER L.L.P.**



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10/529,162

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2113

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EXAMINER

WILCOX, JAMES J

ART UNIT

PAPER NUMBER

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MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

RECEIVED  
JUL 20 2009  
SNELL & WILMER

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/529,162	YONEDA, KENJI	
	<b>Examiner</b>	<b>Art Unit</b>	
	JAMES J. WILCOX	2169	

All participants (applicant, applicant's representative, PTO personnel):

(1) JAMES J. WILCOX (3) \_\_\_\_\_

(2) Joseph Price (Reg. No. 25,124) (4) \_\_\_\_\_

Date of Interview: 15 July 2009.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal (copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: 1 on.

Identification of prior art discussed: Lys et al.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's Representative gave a brief overview of the invention. The Examiner proposed some possible claim amendments such as including that the state data receiving part included an image and state of midstream process and the assessment data comprised the effectiveness and uniqueness of environmental data administered by the environmental data administrating unit to get over the prior art and advance prosecution. No agreement was reached.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/James J Wilcox/ Examiner, Art Unit 2169	/Greta L Robinson/ Primary Examiner, Art Unit 2169
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